

3. Collocation arrangements should include any point of contact or point of presence at which no charges, other than those that could be levied at a point of physical collocation within the incumbent LEC's central office, may be levied.
4. Any type of equipment should be allowed to collocate on the incumbent LEC's premises, and access any network element, in order for the ESP to offer the competitive services desired, as long as such equipment and their collocation arrangements create no harm to the premises.

B. Access to the Network Should Be Limited Only by
Technical Infeasibility and Harm to the Network.

Contrary to the comments of the incumbent LECs, the Commission should establish federal guidelines for determining the technical feasibility of points of interconnection.

ATSI urges the Commission to adopt the principle that a technically feasible point of interconnection includes the service provider's point of presence, meet point, or other logical and reasonable points. The Commission should be guided by, and should instruct states to be guided by, the goal that ESPs be able to achieve points of interconnection that allow them to offer

competitive services at levels of quality that are indistinguishable from those utilized by the incumbent LEC itself and through means by which the end-user enjoys unimpeded, uninterrupted use of the entire incumbent LEC network.

Federal guidelines relating to network access should incorporate the following:

1. A point of interconnection is presumed feasible if similar point of interconnection are available from other network owners with similar technologies, and if a point of interconnection is denied, the incumbent LEC must demonstrate that the desired point of interconnection is not technically feasible or would threaten the integrity of the network.
2. Where a function or feature is utilized, then there are costs that can be disaggregated from actual network costs and imputed to it for purposes of nondiscriminatory LEC pricing structures.
3. Unbundling a network element is technically feasible if such an element is utilized by the incumbent LEC to deliver a competitive or noncompetitive service to the marketplace.

C. Unbundling Must be Made Available at the Smallest Possible Level at Costs Disaggregated on a Service-by-Service Basis.

Contrary to the comments of the incumbent LECs, the Commission should establish federal guidelines for unbundling. See Bell South Comments, p. 45.

Federal guidelines should assist the states in determining whether: 1) network elements are provided in a manner that allows a requesting ESP to combine such elements in order to offer the desired telecommunications service to the public; 2) network elements are offered at the smallest feasible level that allows the ESP an ability to offer the competitive services desired; and 3) individual network elements are priced on a disaggregated, service-by-service basis and are offered to ESPs at the same rates at which the LEC effectively pays itself for the use of the same network element. At all times, the burden of proving that access to a network element is either technically infeasible or that any other reason for denial exists, resides with the incumbent LEC.

A network element should include any basic service arrangement, function, or feature unbundled at the smallest practical level required by the enhanced service provider to offer competitive services. These should be at the very least identical to the network elements, and their basic

service arrangements, functions, features, and capabilities used by the incumbent LEC itself in the provision of the same or similar competitive services.

All basic service arrangements, functions and features and their capabilities that are required under any circumstances to provide a telecommunications service should be made available, including basic service functions such as call forwarding, operator revert, personal receptionist service, stutter dial tone, message waiting indication, paging activation, repeat calling, speed calling and 2-way DID. These should also include directory listings, directory assistance and billing services, as well as integrated services digital network (ISDN), signalling system 7 (SS7) and the advanced intelligent network (AIN).

ATSI agrees with the assertion that all requests for access must be bona fide requests. Bell South states, "the Commission should also consider the economic reasonableness of the request, particularly as it relates to the allocation of financial risk if the requesting carrier fails to follow through with the purchase of the requested unbundled element." See Bell South Comments, p. 37. This would conform to normal commercial practices where penalties or forfeitures result from canceled orders to allow, for example, a manufacturer of goods recover costs involved in production of specialty orders.

ATSI strongly disagrees with the assertion that ESPs should be required to post bond or make other financial commitments when requesting access to the incumbent LEC network. This would violate the foremost tenet of Section 251 by discouraging and in many cases precluding ESPs from making legitimate requests for interconnection, collocation and unbundling.

CONCLUSION

The negotiations process should have appropriate guidelines. In fact, goal-oriented guidelines will enhance dialogues between the parties that have traditionally been absent when small ESPs are forced to go hat-in-hand to the incumbent LEC and will encourage parties to seek arrangements that meet the legitimate needs of both ESPs and incumbent LECs.

Federal guidelines and presumptions in the negotiations process should create pathways for arriving at suitable arrangements by eliminating unnecessary points of controversy and provide assurances for small ESPs that desired outcomes will be achievable within the parameters of technical feasibility and integrity of the network.

The goal of all negotiations should be to allow parties to arrive at suitable arrangements necessary to deliver competitive services to the marketplace. Network elements, their basic service arrangements, functions, features and capabilities, must be available to ESPs, on an unbundled basis, on the same terms and conditions as when utilized by the incumbent LEC itself. This includes the requirement that the incumbent LEC effectively pay itself for the use of a network function or feature at the same rate it charges the ESP.

Finally, the Commission should provide opportunities for the utilization of flexible alternative dispute resolution mechanisms and complaint procedures for the speedy resolution of disputes between the incumbent LEC and the ESP.

ATSI urges the Commission to implement Sections 251 and 252 consistent with these comments.

Respectfully submitted,

**ASSOCIATION OF TELEMESSAGING
SERVICES INTERNATIONAL (ATSI)**

By: 

Frank Moore
ATSI Regulatory Counsel
Smith, Bucklin & Associates, Inc.
Government Affairs Division
1200 19th Street, N.W.
Washington, D.C. 20036
(202) 429-5100

Herta Tucker
Executive Vice President
Association of Telemessaging Services International
1200 19th Street, N.W.
Washington, D.C. 20036
(202) 429-5151